

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

VIRGIL R. GREEN (#189440),

Plaintiff,

CASE NO. 2:13-CV-14247
JUDGE BERNARD A. FRIEDMAN
MAGISTRATE ANTHONY P. PATTI

v.

JAMES G. MILLER,

Defendant.

**ORDER SETTING DISCOVERY DEADLINE and CONDITIONALLY
GRANTING PLAINTIFF'S JULY 6, 2015 MOTION FOR APPOINTMENT
OF AN ATTORNEY (DE 33)**

This case has survived one round of dispositive motion practice, such that Plaintiff's retaliation and access to courts claims based on Defendant's alleged confiscation of Plaintiff's legal materials have survived summary judgment. *See* DEs 12, 18, 19. Currently before the Court is Plaintiff's July 6, 2015 motion for appointment of an attorney. DE 33; *see also* DE 34 (Affidavit in Support). Among other things, Plaintiff claims that he is in need of affidavits from his witnesses – such as inmate Vernice Robinson (presumably #324063 at ARF) and ARF Captain Smith. DE 34 at 2 ¶ 5. Plaintiff also claims that he has not received a response to his November 18, 2014 attempt to settle. DE 34 at 2 ¶ 7.

Upon consideration, the deadline for discovery is set for Thursday, September 10, 2015. Upon completion of the discovery period, this case will be certified for trial.

Additionally, Plaintiff's July 6, 2015 motion for appointment of an attorney (DE 33) is **CONDITIONALLY GRANTED**. This case will be referred to the Court's *pro bono* program administrator. If an attorney is found who will agree to represent Plaintiff in this case, an order of appointment will be entered.¹

IT IS SO ORDERED.

Dated: July 29, 2015

s/ Anthony P. Patti
Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE

I hereby certify that a copy of the foregoing document was sent to parties of record on July 29, 2015, electronically and/or by U.S. Mail.

s/ Michael Williams
Case Manager for the
Honorable Anthony P. Patti

¹Proceedings in forma pauperis are governed by 28 U.S.C. § 1915. Plaintiff brings the instant motion under 28 U.S.C. § 1915(e)(1), which provides that “[t]he court **may request** an attorney to represent any person unable to afford counsel.” 28 U.S.C. § 1915(e)(1) (emphasis added). However, even if the circumstances of Plaintiff’s case convinced the Court to engage in such a search, “[t]here is no right to recruitment of counsel in federal civil litigation, but a district court has discretion to recruit counsel under 28 U.S.C. § 1915(e)(1).” *Dewitt v. Corizon, Inc.*, 760 F.3d 654, 657 (7th Cir. 2014); *see also Olson v. Morgan*, 750 F.3d 708, 712 (7th Cir. 2014) (“Congress hasn’t provided lawyers for indigent prisoners; instead it gave district courts discretion to ask lawyers to volunteer their services in some cases.”).